

## REMARKS

In the Office Action mailed March 8, 2004, the Examiner rejected claims 70-78 under 35 U.S.C. § 102(e) as being anticipated by Shei et al., U.S. Patent No. 6,262,394 (“Shei”) and under 35 U.S.C. § 102(b) as being anticipated by Oda, et al., U.S. Patent No. 5,028,761 (“Oda”). The Examiner rejected claims 79 under 35 U.S.C. § 103(a) as being unpatentable over Oda, in view of Robards et al., U.S. Patent No. 5,900,173 (“Robards”). However, the Examiner indicated that claims 80-84 contained allowable subject matter and would be allowable if rewritten in independent form.

In response, Applicant has canceled claim 77 and amended claims 70 and 78. Applicant respectfully requests reconsideration of the amended claims for the reasons set forth below.

### **1. Claims 70-76, 78 Are Patentable Over Shei**

The Examiner has rejected claims 70-78 as being anticipated by Shei. In particular, the Examiner has argued that legs 82 of cover 80 in Shei constitute a lower support section that defines the receiving space into which the tray is inserted. Applicant has now amended independent claim 70 to clarify that the support section defines *substantially all* of the receiving space. For example, Applicant’s specification notes (on page 14, lines 2-5) that “[p]referably, the distance between supporting edge 87 and flange surface 69 of cover 52 is substantially the same as the distance between the underside of bottom wall 58 and the uppermost surface of lip 60 of tray 50.”

In Shei, legs 82 do not define substantially all of the receiving space into which the tray is inserted. To the contrary, as best shown in Figures 3 and 5 of Shei, the receiving space for the tray is substantially defined by heat sink 46, not by legs 82 of cover 80. In particular, Shei

teaches that heat sink 46 has a cavity 48 that generally conforms to the exterior cross-sectional configuration of the tray. (col. 2, lines 7-10; col. 3, lines 40-49). The purpose of this conforming shape is to enable the heat sink to concentrate the heat generated by the heater at the tray. (col. 2, lines 10-12; col. 4, line 66 – col. 5, line 6). In contrast, cover 80 rests on horizontal shoulders 70 that are positioned only slightly below the tops of the trays. (col. 4, lines 27-41; col. 5, lines 28-31).

By teaching the use of a heat sink that conforms to the shape of the tray so as to concentrate heat at the tray, Shei teaches away from using a cover with a support section that defines substantially all of the receiving space for the tray. Accordingly, claims 70-76 and 78 are patentable over Shei and the other prior art of record.

## **2. Claims 70-76, 78-79 Are Patentable Over Oda**

The Examiner has rejected claims 70-78 as being anticipated by Oda and has rejected claim 79 as being unpatentable over Oda in view of Robards. Applicant has now amended claim 70 to recite separate steps of “inserting a freestanding cover into said heated compartment to define a receiving space” and then “inserting said tray into said receiving space.”

Oda does not teach these two steps. To the contrary, Oda teaches the opposite approach of placing an already-covered tray in the heating area. In particular, Oda teaches placing a casserole 11 in heating portion 93, with the casserole 11 comprising the pan 12 and the top 13. (col. 4, lines 44-58). Thus, Oda teaches placing a tray that is already covered into a heating area, and teaches away from inserting a cover in the heating area to define a receiving space and then inserting the tray into the receiving space. Accordingly, claims 70-76 and 78-79 are patentable over Oda and the other prior art of record.

### **3. Other Matters**

Applicant filed an Information Disclosure Statement with Form PTO-1449 in May 2002. However, Applicant has not received a signed copy of this Form PTO-1449 back from the Examiner. Accordingly, Applicant respectfully requests the Examiner to initial each reference listed on the Form PTO-1449, to indicate the Examiner's consideration of each reference, and to return the signed Form PTO-1449 to the Applicant. A copy of this Information Disclosure Statement is submitted herewith, along with a copy of a stamped post card confirming its receipt. Copies of the references cited in the Information Disclosure Statement were submitted in the parent application, Serial No. 09/515,166.

### **4. Conclusion**

Applicant submits that the present application is now in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, he is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

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